

Assembly Bill No. 472

Passed the Assembly September 10, 1999

Chief Clerk of the Assembly

Passed the Senate September 10, 1999

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 1999, at _____ o'clock ____M.

Private Secretary of the Governor

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CHAPTER _____

An act to add Section 17401 to, and to add Chapter 5 (commencing with Section 17800) to Division 17 of, the Family Code, and to amend Sections 10950, 10951, 10963, 18242, 18243, and 14247 of, to add Section 11475.6 to, and to repeal Section 18246 of, the Welfare and Institutions Code, relating to child support.

LEGISLATIVE COUNSEL'S DIGEST

AB 472, Aroner. Public assistance: child support services.

(1) Existing law sets forth conditions under which any dissatisfied applicant for or recipient of public social services is accorded an opportunity for a state hearing.

This bill would require a custodial or noncustodial parent to be accorded an opportunity for a state hearing when any one or more of certain actions or failures to take action by the department or a state or county agency related to child support is claimed by the parent, and would require a district attorney to institute a dispute resolution process for these cases. These provisions would only be implemented to the extent that there is federal financial participation available.

The bill would require state and county agencies to comply with these hearing decisions.

Since the bill requires each county to participate in these fair hearings, the bill would constitute a state-mandated local program.

(2) Existing law requires the department to publish a booklet describing the proper procedures and processes for the collection and payment of child and spousal support. Existing law requires the district attorney to provide certain notice to recipients of child and spousal support services.

This bill would require that notice of, and information about, the child support services hearings available under the bill be provided by the district attorney in a manner specified by the bill, included in the booklet published by



the department, and included in or with various forms used in actions to enforce child and spousal support obligations, to the extent federal financial participation is available.

(3) Under existing law, it is a crime for a parent of a minor child to willfully omit, without lawful excuse, to furnish necessary clothing, food, shelter, or medical attendance, or other remedial care for his or her child.

This bill would provide that the decision of a district attorney to proceed or decline to proceed against a parent under this provision shall not be subject to review in any state hearing, as described in the bill.

(4) Existing law authorizes the State Department of Social Services to approve demonstration projects in up to 3 counties to test models of child support assurance, and specifies that one of the projects shall conform to a specified design, and provides for the funding of the projects from funds continuously appropriated for the CalWORKs program.

This bill would recast that provision to authorize the approval of up to 3 child support assurance demonstration projects, and would eliminate the requirement that one of the projects conform to a specified design.

(5) Existing law requires the State Department of Social Services to develop research designs to ensure thorough evaluation of the child support assurance demonstration projects that include various factors, including the impact of welfare-to-work participation rates of custodial parents, CalWORKs participation rates and costs, paternity and child support order establishment, and other relevant information.

This bill would recast that requirement and increase the scope of factors that must be included in the research designs.

(6) Existing law provides that the state share of child support assurance payments under the child support assurance demonstration project shall be paid in accordance with the continuously appropriated funding of the CalWORKs program.

This bill would specify that the State Department of Social Services, to the extent possible, shall ensure that no funding streams will be utilized to pay for child support assurance payments if use of the funding streams would cause participants to be subject to the limitations imposed on the CalWORKs program that a parent or caretaker relative shall not be eligible to receive aid for a cumulative period of more than 18 months after the individual signs, or refuses, without good cause, to sign a welfare-to-work plan, unless it is certified by the county that there is no job currently available for the recipient and the recipient participates in community service activities.

(7) This bill would also enact similar alternative provisions to those described in paragraphs (1) to (3), above, which would become operative only if either AB 196 or SB 542, or both, are enacted, and other specified conditions occur, in which case the other provisions of the bill would not become operative.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 17401 is added to the Family Code, to read:

17401. (a) All of the following shall include notice of, and information about, the child support service hearings available pursuant to Section 10950, provided that there



is federal financial participation available as set forth in subdivision (e) of Section 10950:

(1) The informational materials included with the summons and complaint pursuant to subdivision (d) of Section 17400.

(2) The booklet required by subdivision (a) of Section 17434.

(3) Any notice required by subdivision (c) or (h) of Section 17406.

(b) To the extent not otherwise required by law, the local child support agency shall provide notice of, and information about, the child support services hearings available pursuant to Section 10950 in any regularly issued notices to custodial and noncustodial parents subject to Section 17400, provided that there is federal financial participation available as set forth in subdivision (e) of Section 17801.

SEC. 2. Chapter 5 (commencing with Section 17800) is added to Division 17 of the Family Code, to read:

CHAPTER 5. COMPLAINT RESOLUTION

17800. Each local child support agency shall maintain a complaint resolution process. The department shall specify by regulation, no later than July 1, 2001, uniform forms and procedures that each local child support agency shall use in resolving all complaints received from custodial and noncustodial parents. A complaint shall be made within 90 days after the custodial or noncustodial parent affected knew or should have known of the child support action complained of. The local child support agency shall provide a written resolution of the complaint within 30 days of the receipt of the complaint.

17801. (a) A custodial or noncustodial parent who is dissatisfied with the local child support agency's resolution of a complaint shall be accorded an opportunity for a state hearing when any one or more of the following actions or failures to take action by the department or the local child support agency is claimed by the parent:



(1) An application for child support services has been denied or has not been acted upon within the required timeframe.

(2) The child support services case has been acted upon in violation of state or federal law or regulation or department letter ruling, or has not yet been acted upon within the required timeframe, including services for the establishment, modification, and enforcement of child support orders and child support accountings.

(3) Child support collections have not been distributed or have been distributed or disbursed incorrectly, or the amount of child support arrears, as calculated by the department or the local child support agency is inaccurate. The amount of the court order for support, including current support and arrears, is not subject to a state hearing under this section.

(4) The child support agency's decision to close a child support case.

(b) Prior to requesting a hearing pursuant to subdivision (a), the custodial or noncustodial parent shall exhaust the complaint resolution process required in Section 17800, unless the local child support agency has not, within the 30-day period required by that section, submitted a written resolution of the complaint. If the custodial or noncustodial parent does not receive that timely written resolution he or she may request a hearing pursuant to subdivision (a).

(c) A hearing shall be provided under subdivision (a) when the request for a hearing is made within 90 days after receiving the written notice of resolution required in Section 17800 or, if no written notice of resolution is provided within 30 days from the date the complaint was made, within 90 days after making the complaint.

(d) A hearing under subdivision (a) shall be set to commence within 30 days after the request is filed, and at least 10 days prior to the hearing, all parties shall be given written notice of the time and place of the hearing. A final hearing decision shall be rendered within 20 working days of the date of the hearing.



(e) To the extent not inconsistent with this section, hearings under subdivision (a) shall be provided in the same manner in which hearings are provided in Sections 10950 to 10967 of the Welfare and Institutions Code and the State Department of Social Services' regulations implementing and interpreting those sections.

(f) Pendency of a state hearing shall not affect the obligation to comply with an existing child support order.

(g) Any child support determination that is subject to the jurisdiction of the superior court and that is required by law to be addressed by motion, order to show cause, or appeal under this code shall not be subject to a state hearing under this section. The director shall, by regulation, specify and exclude from the subject matter jurisdiction of state hearings provided under subdivision (a), grievances arising from a child support case in the superior court which must, by law, be addressed by motion, order to show cause, or appeal under this code.

(h) The local child support agency and the Franchise Tax Board shall comply with, and execute, every decision of the director rendered pursuant to this section.

(i) The director shall contract with the State Department of Social Services or the Office of Administrative Hearings for the provision of state hearings in accordance with this section.

(j) This section shall be implemented only to the extent that there is federal financial participation available at the child support funding rate set forth in Section 655(a)(2) of Title 42 of the United States Code.

17802. To the extent that a custodial or noncustodial parent has a complaint concerning the action or inaction of the Franchise Tax Board in any child support case referred to the Franchise Tax Board pursuant to Section 17400, that complaint shall be resolved pursuant to Section 17800 by the local child support agency that is responsible for the case. The Franchise Tax Board shall cooperate with the local child support agency in resolving the complaint within the timeframes required by Section 17800. If the custodial or noncustodial parent requests a hearing pursuant to Section 17801, the Franchise Tax

Board shall ensure that a representative attends the hearing if deemed necessary by the local child support agency.

17803. The custodial or noncustodial parent, within one year after receiving notice of the director's final decision, may file a petition with the superior court, under Section 1094.5 of the Code of Civil Procedure, praying for a review of the entire proceedings in the matter, upon questions of law involved in the case. The review, if granted, shall be the exclusive remedy available to the custodial or noncustodial parent for review of the director's decision. The director shall be the sole respondent in the proceedings. No filing fee shall be required for the filing of a petition pursuant to this section. Any such petition to the superior court shall be entitled to a preference in setting a date for hearing on the petition. No bond shall be required in the case of any petition for review, nor in any appeal therefrom. The custodial or noncustodial parent shall be entitled to reasonable attorney's fees and costs, if he or she obtains a decision in his or her favor.

17804. Each local child support agency shall establish the complaint resolution process specified in Section 17800 as of the date it transitions from the office of the district attorney to the county agency as provided in Sections 17304 and 17305, but no earlier than July 1, 2001. The department shall implement the state hearing requirements specified in Section 17801 no later than July 1, 2001.

SEC. 3. Section 10950 of the Welfare and Institutions Code is amended to read:

10950. (a) If any applicant for or recipient of public social services is dissatisfied with any action of the county department relating to his or her application for or receipt of public social services, if his or her application is not acted upon with reasonable promptness, or if any person who desires to apply for public social services is refused the opportunity to submit a signed application therefor, and is dissatisfied with that refusal, he or she shall be accorded an opportunity for a state hearing.



(b) A custodial or noncustodial parent shall be accorded an opportunity for a state hearing when any one or more of the following actions or failures to take action by the department or a state or county agency operating pursuant to Section 11350.1 or 11475.1 is claimed by the parent:

(1) An application for child support services has been denied or has not been acted upon within the required timeframe.

(2) The child support services case has been acted upon in violation of state or federal law or regulation or department letter ruling, or has not yet been acted upon within the required timeframe, including services for the establishment, modification, and enforcement of child support orders and child support accountings.

(3) Child support collections have not been distributed or have been distributed or disbursed incorrectly, or the amount of child support arrears, as calculated by the department or a state or county agency operating pursuant to Section 11350.1 or 11475.1, is inaccurate. The amount of the court order for support, including current support and arrears, is not subject to a state hearing under this section.

(4) The child support agency's decision to close a child support case.

(c) Hearings under subdivision (b) shall be provided in the same manner in which hearings are provided with respect to an application for, or receipt of, other public social services under this section. Pendency of a state hearing shall not affect the obligation to comply with an existing support order.

(d) Each district attorney shall establish a complaint resolution process. The department shall specify, by regulation, uniform forms and procedures that each district attorney shall use in resolving complaints received from custodial and noncustodial parents. A complaint shall be made within 90 days after the custodial or noncustodial parent affected knew or should have known of the child support case action complained of. The district attorney shall provide a written resolution of



the complaint within 30 days of the receipt of the complaint. Prior to requesting a hearing pursuant to subdivision (b), the custodial or noncustodial parent shall exhaust the complaint resolution process, unless the district attorney has not, within the 30-day period required by this subdivision, submitted a written resolution of the complaint. If the custodial or noncustodial parent does not receive that timely written resolution or is dissatisfied with the resolution of the complaint, he or she may request a hearing pursuant to subdivision (b).

(e) Subdivisions (b), (c), and (d) shall be implemented only to the extent that there is federal financial participation available at the child support funding rate set forth in paragraph (2) of subsection (a) of Section 655 of Title 42 of the United States Code.

(f) A request for a state hearing may be made in person or through an authorized representative, without the necessity of filing a claim with the board of supervisors, by filing a request with the department or the State Department of Health Services, whichever department administers the public social service.

(g) Priority in setting and deciding cases shall be given in those cases in which aid or services are not being provided pending the outcome of the hearing. This priority shall not be construed to permit or excuse the failure to render decisions within the time allowed under federal and state law.

(h) Notwithstanding any other provision of this code, there is no right to a state hearing when either of the following circumstances exists:

(1) State or federal law requires automatic grant adjustments for classes of recipients unless the reason for an individual request is incorrect grant computation.

(2) The sole issue is a federal or state law requiring an automatic change in services or medical assistance which adversely affects some or all recipients.

(i) (1) For the purposes of administering health care services and medical assistance, the State Director of Health Services shall have those powers and duties



conferred on the Director of Social Services by this chapter to conduct state hearings in order to secure approval of a state plan under applicable federal law.

(2) The State Director of Health Services may contract with the State Department of Social Services for the provision of state hearings in accordance with this chapter.

(j) Any child support determination that is subject to the jurisdiction of the superior court and that is required by law to be addressed by motion, order to show cause, or appeal under the Family Code or this code shall not be subject to a state hearing under this section. The director shall, by regulation, specify and exclude from the subject matter jurisdiction of state hearings provided under subdivision (b), grievances arising from a child support case in the superior court which must, by law, be addressed by motion, order to show cause, or appeal under the Family Code or this code.

(k) As used in this chapter, “recipient” means an applicant for or recipient of public social services, including child support services, except aid exclusively financed by county funds or aid under Article 1 (commencing with Section 12000) to Article 6 (commencing with Section 12250), inclusive, of Chapter 3 of Part 3, and under Article 8 (commencing with Section 12350) of Chapter 3 of Part 3, or those activities conducted under Chapter 6 (commencing with Section 18350) of Part 6, and shall include any individual who is an approved adoptive parent, as described in subdivision (c) of Section 8708 of the Family Code, and who alleges that he or she has been denied or has experienced delay in the placement of a child for adoption solely because he or she lives outside the jurisdiction of the department.

(l) The decision of a district attorney to proceed or to decline to proceed under Section 270 of the Penal Code, or seek or not seek contempt charges, shall not be subject to review in a hearing under this section.

(m) For the purposes of this section, a superior court is not a state or county agency operating pursuant to Section 11350.1 or 11475.1.

SEC. 4. Section 10951 of the Welfare and Institutions Code is amended to read:

10951. (a) No person shall be entitled to a hearing pursuant to this chapter unless he or she files his or her request for that hearing within 90 days after the order or action complained of.

(b) A hearing shall be provided under subdivision (b) of Section 10950 when the request for a hearing is made within 90 days after receiving the written notice of resolution provided in subdivision (d) of Section 10950 or, if no written notice is provided within 30 days from the date the complaint was made, within 90 days after making the complaint.

SEC. 5. Section 10963 of the Welfare and Institutions Code is amended to read:

10963. The county director and a state or county agency acting pursuant to Section 11350.1 or 11475.1 shall comply with, and execute, every decision of the director rendered pursuant to this chapter.

SEC. 7. Section 18242 of the Welfare and Institutions Code is amended to read:

18242. (a) Upon application by a county board of supervisors, the department may approve up to three demonstration projects to test models of child support assurance. The projects shall either test different models of child support assurance or may test the same model if counties in which the same model is tested involve counties with different demographics.

(b) The department may approve joint projects by two or more counties if both of the following apply:

(1) The equity of access to the project and its related services is ensured to all participants.

(2) The project includes appropriate operational and fiscal arrangements between the counties submitting the joint project.

(c) If the department approves a joint project by two or more counties, that joint project shall constitute one of the projects authorized by subdivision (a).

(d) It is the intent of the Legislature that the purpose of the demonstration projects authorized by this article is



to test child support assurance models as alternatives to welfare under which families with earnings and a child support order receive a guaranteed child support payment, in lieu of a grant under the CalWORKs program, from funds continuously appropriated for the CalWORKs program.

(e) A county may limit the number of families that will be permitted to enroll in its child support assurance demonstration program.

SEC. 8. Section 18243 of the Welfare and Institutions Code is amended to read:

18243. The department shall develop research designs to ensure thorough evaluations of the child support assurance demonstration projects that shall include, but not be limited to, the impact of the project on work participation rates of custodial parents, household incomes and family well-being, CalWORKs participation rates and costs, rates of paternity and child support order establishment, and any other relevant information the director may require.

SEC. 9. Section 18246 of the Welfare and Institutions Code is repealed.

SEC. 10. Section 18247 of the Welfare and Institutions Code is amended to read:

18247. (a) The state share of child support assurance payments under this article shall be paid in accordance with Section 15200.

(b) The department shall, to the extent possible, ensure that no funding streams will be utilized to pay for child support assurance payments if the use of the funding streams would cause participants to be subject to the limitations of Section 11454 or any similar limitation.

(c) The county administrative cost for the operation of a child support assurance program shall be paid from the county's allocation provided under Sections 15204.2 and 15204.3.

SEC. 11. Sections 1 and 2 of this bill shall become operative only if either Assembly Bill 196 or Senate Bill 542, or both, are enacted into law during the 1999–2000 Regular Session, and as enacted, either or both bills add

Division 17 (commencing with Section 17000) to the Family Code, in which case Sections 3, 4, 5, and 6 of this bill shall not become operative.

SEC. 12. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.



Approved _____, 1999

Governor

